



DEPARTMENT OF THE NAVY
NAVAL SCHOOL OF HEALTH SCIENCES
BETHESDA MARYLAND 20889-5611

IN REPLY REFER TO:

NSHSBETHINST 5370.3B
02

JAN 4 1999

NSHS BETHESDA INSTRUCTION 5370.3B

From: Commanding Officer

Subj: OFF-DUTY EMPLOYMENT BY DEPARTMENT OF THE NAVY (DON)
PERSONNEL

Ref: (a) DOD Directive 5500.7-R of 30 Aug 93
(b) SECNAVINST 5370.2J
(c) MILPERSMAN 3420500
(d) MANMED Art 1-22

Encl: (1) NDW-NNMC-1050/5
(2) NAVMED 1610/1
(3) Off-duty Employment Acknowledgement
(4) Employer's Acknowledgement letter
(5) Off-duty Employment Request Procedure Flowchart

1. **Purpose.** To establish individual responsibilities for obtaining approval for off-duty employment of active duty personnel assigned to the Naval School of Health Sciences (NSHS), Bethesda, Maryland.

2. **Cancellation.** NSHSBETHINST 5370.3A

3. **Applicability.** This instruction applies to all active duty personnel assigned to NSHS, Bethesda, Maryland. Army and Air Force personnel assigned to NSHS, Bethesda, Maryland shall comply with the guidelines provided in HSC Regulation 600-3 and AF Regulation 30-30 respectively.

4. **Policy**

a. References (a) and (b) establish policy and set forth guidelines concerning voluntary participation in off-duty employment by DON personnel.

b. Off-duty employment will not normally exceed 16 hours per week.

(1) Personnel engaged in off-duty employment shall rest at least 6 hours between ending an outside employment work shift and beginning military duties.

JAN - 4 1999

(2) Periods in excess of 16 hours per week can be authorized only by the Commanding Officer if no conflict with military duties will occur. The member must ensure that enclosures (1) or (2) contains justification to exceed 16 hours per week.

c. Subject to the limitations set forth in this instruction and its references, personnel shall not be restrained from engaging in legitimate and ethical enterprise and employment during their off-duty hours. Personnel shall **not** engage in outside employment without **first** obtaining the **written** permission of the Commanding Officer. The Commanding Officer may disapprove any request for any legitimate reason she/he deems appropriate.

d. The Commanding Officer may withdraw participation in off-duty employment when it is determined to be non-compliant with the limitations set forth in this instruction or its references. Violation of these provisions may be cause for disciplinary action under the Uniform Code of Military Justice.

e. The Commanding Officer is prohibited, either directly or indirectly, from requiring personnel to engage in private employment in competition with civilian labor and from permitting them to leave their posts of duty during working hours for such a purpose.

f. No personnel shall request or be granted administrative absence for the primary purpose of conducting off-duty employment. Subsidiary obligations arising out of off-duty employment (such as court appearances, testimony before a compensation board, training, orientation, etc.), which take place during normal working hours, shall be accomplished only while on annual leave.

g. Off-duty employment shall not be conducted on military premises during normal working hours, involve expense to the Federal government, nor involve use of military equipment, personnel or supplies. Military personnel may not be employed by Medical Department officers involved in off-duty employment.

h. Student personnel. Requests to engage in off-duty employment shall **not** be approved when:

(1) The student has not maintained an 80% overall average.

(2) The student's past and/or present performance and/or conduct indicate that approval of the request is unwarranted.

(3) The time requested for employment exceeds 16 hours per week.

i. These guidelines do not apply to the provision of emergency medical assistance in isolated instances. Also excluded are nonremunerative community services operated by nonprofit organizations for the benefit of all the community and deprived persons, such as a drug abuse program, program volunteer and family planning centers.

j. Where doubt exists as to whether all applicable constraints have been considered, consultation should be effected with the local naval legal service office.

5. Action

a. The Commanding Officer shall:

(1) Be the final approval/disapproval authority for all requests to engage in off-duty employment or private enterprise.

(2) Require an annual statement detailing any outside employment from all personnel within the command.

b. Directors shall:

(1) Review all requests submitted to ensure the activities are in compliance with this instruction and its references.

(2) Recommend approval/disapproval based on the criteria established above.

(3) Make immediate notification to the Commanding Officer if the off-duty employment or private enterprise interferes with a member's performance or changes to a status not in compliance with this instruction or its references.

c. The Director, Administration shall:

(1) Maintain an accurate file of all personnel authorized by the Commanding Officer to engage in off-duty employment or private enterprise.

(2) Ensure the proper distribution of copies of approved requests as follows: The original to member; a copy to member's service record; and a copy for the command file.

JAN - 4 1999

d. Individuals

(1) Enlisted personnel shall submit enclosures (1) and (3) via their chain of command for approval/disapproval by the Commanding Officer **prior** to engaging in off-duty employment or private enterprise non-health care.

(2) Officer personnel shall submit enclosures (2) and (3) via their chain of command for approval/disapproval by the Commanding Officer **prior** to engaging in off-duty employment or private enterprise. Participating DON personnel shall ensure their request contains required information as outlined in reference (a).

(3) Health care providers seeking permission to engage in off-duty employment for **health care**, should not interfere or unfairly compete with local civilian health care practitioners. NSHS health care providers must submit documentation that their off duty employment will not negatively impact the civilian community and practitioners. Enclosure (4), the Employers Acknowledgement is require to be submitted with off-duty employment package.



D. A. WYNKOOP

Distribution:
Lists I & III

REQUEST/APPROVAL OF CIVILIAN EMPLOYMENT DURING OFF-DUTY HOURS
NDW-NNMC-1050/5 (Rev. 1-74)

(Prepare in Quadruplicate)

DATE
JAN - 4 1999

FROM:		REFERENCE (a)	
To: Commanding Officer.			
It is respectfully requested that I be granted permission to engage in off-duty civilian employment. The following data is submitted for your information and consideration.			
DATE REPORTED FOR DUTY:		OFF-DUTY CIVILIAN EMPLOYMENT	
PRESENT ASSIGNMENT IN THIS COMMAND:		POSITION:	
HOURS PER DAY WORKED IN MY PRESENT ASSIGNMENT:		FIRM:	
HOURS PER WEEK WORKED IN MY PRESENT ASSIGNMENT INCLUDING WATCHES:		LOCATION:	
		HOURS PER DAY TO BE EMPLOYED:	
		HOURS PER WEEK TO BE EMPLOYED:	
I HAVE READ AND COMPLETELY UNDERSTAND THE PROVISIONS OF REFERENCE (a) AND I FURTHER UNDERSTAND THAT THIS AUTHORITY MAY BE REVOKED AT ANY TIME.			
SIGNATURE			
RECOMMENDATION OF CHIEF OF SERVICE			
DATE			
FORWARDED, RECOMMENDING			
<input type="checkbox"/> APPROVAL <input type="checkbox"/> DISAPPROVAL			
SIGNATURE (Chief of Service)			
RECOMMENDATION OF DIRECTOR, ADMINISTRATIVE/CLINICAL SERVICES			
DATE			
FORWARDED, RECOMMENDING			
<input type="checkbox"/> APPROVAL <input type="checkbox"/> DISAPPROVAL			
SIGNATURE			
COMMANDING OFFICER'S ACTION			
<input type="checkbox"/> APPROVED			
<input type="checkbox"/> DISAPPROVED			
DATE			
SIGNATURE OF COMMANDING OFFICER			
RETURN TO MILITARY PERSONNEL SERVICE FOR DISTRIBUTION			
DISTRIBUTION:			
ORIGINAL - MEMBER			
COPY - CHIEF OF SERVICE			
COPY - SERVICE RECORD OF MEMBER			
COPY - PERMANENT COMMAND FILE			

JAN - 4 1999

PRIVACY ACT
STATEMENT

Under the authority of 10 USC, 5 USC 301 and Executive Order 9397, information requested herein will be used in evaluating your request to engage in off-duty remunerative professional civilian employment. Disclosure of the information is voluntary, but failure to do so may result in delay and possible disapproval of your request.

NAME (Last, Middle Initial, First)	GRADE	SOCIAL SECURITY NO	DESIGNATOR
FROM:			
			ACTIVITY

TO: COMMANDING OFFICER

A. MEMBER'S REQUEST

IN ACCORDANCE WITH THE MANUAL OF THE MEDICAL DEPARTMENT, ARTICLE 1-22, I REQUEST PERMISSION TO ENGAGE IN OFF-DUTY REMUNERATIVE PROFESSIONAL CIVILIAN EMPLOYMENT APART FROM MY ASSIGNED MILITARY DUTIES. I HAVE ATTACHED A STATEMENT FROM THE LOCAL PROFESSIONAL ASSOCIATION INDICATING NO OBJECTION TO MY PROFESSIONAL EMPLOYMENT IN THE COMMUNITY.

1. TYPE OF EMPLOYMENT AND NATURE OF WORK		2. NAME AND ADDRESS OF EMPLOYER	
		3. TELEPHONE NO. AT EMPLOYMENT	4. DISTANCE FROM DUTY STATION
5. BEGINNING DATE	6. EXTENT OF EMPLOYMENT		
	Hours Per Day _____ X Days Per Week _____ = Hours Per Week _____		
7. REASON FOR OUTSIDE EMPLOYMENT		8. SPECIFIC EXTENUATING CIRCUMSTANCES OR HARDSHIP	
9. SIGNATURE OF REQUESTER		10. DATE	

B. ACTION BY COMMANDING OFFICER

REQUEST IS

☐

Approved. (Requester must sign Part C. affirmation.)

☐

Not Approved. Reason:

SIGNATURE OF COMMANDING OFFICER

DATE

C. MEMBER'S STATEMENT OF AFFIRMATION (Sign in presence of Commanding Officer.)

I hereby affirm that I understand the directive concerning off-duty employment in the Manual of The Medical Department, Section III, article 1-22, and I agree to conduct any off-duty employment activities in accordance with those regulations. Further, I understand:

- That it is my obligation to inform my commanding officer in writing of any deviation in my off-duty employment from my proposal as set forth in Part A above prior to the inception of such change.
- That no outside responsibilities shall be assumed which will in any manner compromise the effective discharge of my duties as an officer in The Medical Department of The U.S. Navy, both as to number of hours devoted to outside work and individual limit and capacity.
- That a copy of this request may be forwarded to the Chief, Bureau of Medicine and Surgery.
- FOR PHYSICIANS ONLY (Cross out if not applicable.) That I recognize that I am prohibited from and cannot in good conscience assume the primary responsibility as an individual practicing physician for the care of the critically ill on a continuing basis as this will inevitably result in the compromise of my responsibility to the patient on the one hand or to the primacy of my military obligations on the other.

WITNESS: (Signature of Commanding Officer)

DATE

SIGNATURE OF MEMBER

DATE

D. REMARKS

JAN - 4 1999

OFF-DUTY EMPLOYMENT
ACKNOWLEDGMENT

This form will be completed and signed by all staff personnel requesting permission to engage in off-duty employment, regardless of the nature of such employment.

I hereby acknowledge that I have been notified of and have had available to me the NSHSBETHINST 5370.3B. I am aware and have knowledge of the contents of this instruction and understand that any action by me that violates or is contrary to the provisions of the instruction may result in disciplinary action in accordance with the Uniform Code of Military Justice, or the appropriate administrative or employment actions.

CONSENT AND RELEASE FROM LIABILITY:

I authorize the Commanding Officer, Naval School of Health Sciences, Bethesda and his legal representatives, for purpose of overseeing my off-duty employment, to contact and receive copies of all records, documents, and information concerning my off-duty employment from my employer. This includes, but is not limited to, all pay records, IRS reports, logs, time sheets, Quality Assurance Reports, and credentialing matters.

I release from liability all individuals and organizations who respond to inquires regarding my off-duty employment.

Signature

Date

FOR HEALTH CARE PROVIDERS:

I hereby acknowledge that I am aware that when I engage in off-duty remunerative civilian employment, I do this apart from my assigned government duties. I also am aware and acknowledge that in the off-duty employment, I will not be working for the United States Navy and, therefore, will not be covered for medical malpractice liability under 10 United States Code, Section 1089 ("Gonzales Act") or any other statute or regulation. Any claim or lawsuit involving an allegation of medical malpractice on my, or my employer's behalf will be my, or my employer's sole responsibility and not that of the United States Government.

Requesting Provider/Date

Enclosure (3)

EMPLOYER' S ACKNOWLEDGEMENT

Employer:

Address:

City/State:

Date:

Commanding Officer
Naval School of Health Sciences
8901 Wisconsin Ave
Bethesda, MD 20889-5600

Dear:

SUBJECT: OFF-DUTY EMPLOYMENT

This letter is to acknowledge the compensation and availability limitations applicable to the employment of military health care providers.

a. As a condition of off-duty employment, I accept the fact that a Department of Defense (DOD) military health care provider may not solicit or accept compensation, directly or indirectly, from the appropriate funds of any Federal agency or department for care rendered to any patient. This restriction applies to payments received from the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS) and the Veterans Administration. Furthermore, CHAMPUS provider in those instances when a DOD health care provider provides direct health care services to the DOD beneficiary regardless of the intended disbursement of such compensation.

b. I further certify that this facility will seek no direct payments from DOD health care beneficiaries for services provided by DOD health care providers and will not hold any CHAMPUS recipient liable for any disallowance made because of the application of provisions herein.

c. The DOD health care providers off-duty employment will be limited to 16 hours per week unless authorized by the Commanding Officer, Naval School of Health Sciences. Additionally, scheduling of off-duty employment must allow for a six hour rest period between the end of the off-duty employment

Enclosure (4)

JAN 1999

at the civilian health care facility and the beginning of military duties.

d. A DOD health care provider may not assume, on a continuing basis, the primary responsibility for the medical or dental care of any patient at any off-duty civilian health care facility.

e. A military health care provider is required to respond immediately for military duties that may arise during the scheduled off-duty employment.

f. This health care facility will notify within 72 hours the Commanding Officer of the military employee of any derogatory professional incident(s) which may occur concerning such provider.

g. A DOD health care provider may not refer patients from a military treatment facility to facilities with which the provider maintains off-duty employment.

h. A military health care provider must comply with local licensing requirements and the requirements of the Federal Drug Enforcement Administration, and is responsible for the maintenance of personal medical liability insurance coverage.

i. A DOD health care provider must apply for annual leave for any obligation (i.e., court appearance or testimony before a compensation board) arising out of off-duty employment when these obligations require absence from the military command during normal duty hours.

j. Understanding the above, (name of employer) accepts the compensation and availability limitations placed on (name of employee) and requests that he/she be permitted to engage in off-duty employment with (name of employer).

Sincerely,

(Employer's Signature)

